

**Before the
Federal Communications Commission
Washington, D.C. 20554**

In the Matter of)	
)	
Third Periodic Review of the)	MB Docket No. 07-91
Commission's Rules and Policies)	
Affecting the Conversion)	
To Digital Television)	

To: Secretary, FCC

COMMENTS

The University of Houston System ("the University"), by its attorneys, provides these comments in response to the *Notice of Proposed Rulemaking* in the referenced docket, FCC 07-70 (released May 18, 2007) ("*NPRM*").

The University applauds the FCC's determination to have a strong DTV system in place across the country on the February 17, 2009 digital transition deadline, and it fully supports that goal. However, the University urges the FCC to exercise its discretion under the law establishing the transition deadline to provide substantially more flexibility and accommodation to stations regarding the process and timing of achieving their "ultimate" or "final" DTV transmission facilities.

Specifically, with respect to KUHT-DT, the University urges the FCC to permit the University to use the transmitting antenna for KUHT-DT on its permanent DTV channel that is now in use at KUHT(TV) and KUHT-DT on its interim DTV channel, thereby preserving coverage to the KUHT analog service area. The University also urges the FCC to permit it to operate post-transition for a

short time utilizing the interim DTV facilities on Channel *9, in order to permit KUHT(TV) to broadcast until the deadline and facilitate a seamless transition.

BACKGROUND

The University is a public educational institution in Texas and the licensee of noncommercial educational station KUHT (TV), Channel *8, and KUHT-DT, Channel *9, in Houston, Texas. Station KUHT was the first noncommercial educational station in the United States, having taken to the air on Channel *8 in 1953. The University is the PBS member station in Houston, broadcasting a wide variety of high-quality news, public affairs, informational, educational and entertainment programming, including children's programming, to the Houston metropolitan area.

The University was originally allotted out-of-core Channel *53 as its pre-transition digital channel. At the University's request, the FCC modified the allotment to specify Channel *9 for KUHT-DT pre-transition, although that interim allotment necessitated the use of limited power. KUHT-DT is currently licensed and operating on Channel *9 with ERP of 8.4 kW at 564 m HAAT, utilizing the same antenna as KUHT(TV). The power level for these facilities were limited on Channel *9 by interference considerations, and do not permit KUHT-DT to replicate the KUHT analog service population.

It was always the University's intention ultimately to return to its analog Channel *8 as its permanent digital channel, and it sought the allocation of DTV Channel *8 in the FCC's digital channel election process. That election was

approved by the FCC and the final Table of DTV Allotments specifies permanent DTV operation on Channel *8 for KUHT-DT. In the Final DTV Table, the FCC also accommodated the University's request for an increase in ERP for post-transition operations. However, the proposed DTV Table allotment for KUHT-DT continues to specify a mistaken directional antenna pattern.

COMMENTS

I. The FCC should be flexible in the process for and timing of construction of final DTV facilities, and accommodating of Stations wishing to improve coverage.

The University strongly urges the FCC to exercise its discretion under the law establishing the February 17, 2009 digital transition deadline by providing substantial flexibility to stations regarding the process for and timing of their achieving their "ultimate" or "final" DTV transmission facilities. The FCC should also be as accommodating as possible to stations wishing to improve their coverage – at least to the point of replication.

In this case, the University wants and needs to be able to re-construct KUHT-DT once, not twice, while achieving the best coverage that it can using Channel *8 under the FCC's technical rules. As described in the attached statement of the University's engineering consultants, Kessler & Gehman, this means permitting KUHT-DT to operate using the transmitting antenna currently in use for both KUHT(TV) on Channel *8 and KUHT-DT on interim Channel *9 (Antenna ID No. 18548). As explained in the engineering statement, it appears to

be a mistake that the FCC specified a different antenna pattern (Antenna ID No. 80228) for KUHT-DT in the first place, and an oversight that the issue was not corrected in the Final Table. The University urges the FCC to do so now.

II. The FCC should permit Stations to continue to operate current DTV facilities past the transition deadline where appropriate, to facilitate the transition with the least possible disruption.

The University intends to try to broadcast over its analog facilities on Channel *8 until the February 17, 2009 deadline established by the Digital Television and Public Safety Act of 2005, Title III of the Deficit Reduction Act of 2005, Pub. L. No. 109-171, 120 Stat. 4 (2006), so as to permit viewers converting from analog to digital receivers to be able to receive KUHT's analog service for as long as possible. The University thus urges the FCC to provide flexibility in the transition process by permitting stations, including KUHT-DT, to continue to operate their currently constructed and licensed DTV facilities through the end of transition and even beyond for a limited period, if such operation will not cause interference to other stations. This would allow KUHT-DT some period of time after the transition deadline to come up on the former analog channel.

CONCLUSION

The University urges the FCC to adopt flexible rules consistent with the comments above.

Respectfully submitted,

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